

REMARKS

Favorable reconsideration of this application is requested in view of the above amendments and the following remarks.

Claims 27 and 28 have been added. Claim 27 is similar to claim 1 but includes means language. Claim 28 is supported in the specification at, for example, FIGs. 6A to 6C. No new matter is added.

35 USC § 112 Rejections

Claim 10 is rejected for failing to comply with the enablement requirement and also for being indefinite. The rejection contends that it does not appear that an elastic member at the end of a groove impacts the second moving member during the retreating movement of the second moving member. Applicants would like to refer the Examiner to FIGs. 11A and 11B and the description on page 17, line 27 to page 18, line 8. The moving plate 31 contains a groove 31A that has an impact absorbing means 23F and an elastic member 23Fb. Thus, it can be considered that the groove 31A and the moving plate 31 are of the same structure. As the moving plate 31 with the groove 31A retreats, the first movable pin 30a is positioned to make contact with the elastic member 23Fb within the groove 31A, thereby stopping the motion of the moving plate 31 via groove 31A and the impact absorbing means 23F and elastic member 23Fb. Therefore, the moving plate 31 is impacted by the elastic member 23Fb. Withdrawal of the rejections is requested.

35 USC § 102 Rejections

Claim 1 has been rejected under 35 USC 102(b) as being anticipated by Garthe et al. (US 2003/0225429). Applicants respectfully traverse the rejection.

Claim 1 is directed to a lancing device having a movement converting mechanism for converting retreating movement of the second moving member away from the puncturing position into advancing movement of the lancing member to the puncturing position, and an impact absorbing means that comes into stopping contact with the

second moving member in the retreating movement for absorbing impact that is caused when the first and the second moving members come to stop on puncture operation.

Therefore, the advancing movement of the lancing member and the first moving member to the puncturing position is caused by the retreating movement of the second moving member. Further, it is the second moving member in the retreating movement that comes into stopping contact with the impact absorbing means for absorbing impact energy at the time of puncturing.

Garthe discloses rotation of a guide sleeve 51 resulting in a puncturing or advancing movement of a lancet 30 or lancet holder 40 (Figs. 4A and 4B). The movement of the lancet 30 or the lancet holder 40 is determined solely by the profile of the cam groove 52, while the movement of an impact mass 60 (equated to the second moving member by the Examiner) is determined solely by the profile of another cam groove 53. Even if the impact mass 60 is eliminated, the lancet 30 or lancet holder 40 makes the same movement as determined by the cam groove 52. Therefore, the movement of the impact mass 60 is never converted into any movement of the lancet 30 or the lancet holder 40, which is different than the movement of the second moving member causing the movement of the lancing member and first moving member. Therefore, Garthe does not teach or suggest the features of claim 1 and the rejection should be withdrawn.

Claims 1-4, 6, 7, 9 and 24 have been rejected under 35 USC 102(e) as being anticipated by Whitson et al. (US 7,144,404). Applicants respectfully traverse the rejection.

Whitson discloses that a puncturing movement of a lancet holder 24 is caused in response to a lowering or advancing movement of a frame 14 (Fig. 5, from position 1 to position 2). The frame 14 is moved relative to the pinion 16 (or the drive wheel integral therewith). The pinion 16 is linearly fixed (col. 6, lines 12-21). Therefore, the movement of the frame 14 from the pinion position 1 to the pinion position 2 means downward or advancing movement of the frame 14, which is contrary to the discussion in the rejection. Therefore, Whitson does not teach or suggest the features of claim 1 and the rejection should be withdrawn.

Claims 2-4, 6, 7, 9 and 24 are allowable at least by virtue of their dependence on independent claim 1 or intervening dependent claims. The rejections of these dependent claims should be withdrawn. Applicants do not concede the correctness of the rejection.

35 USC § 103 Rejections

Claims 2, 3, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garthe et al. (US 2003/0225429) in view of Alden et al. (US 7,033,371) and Stanton (US 2,993,698). Applicants respectfully traverse this rejection.

Claims 2, 3, 9 and 10 are allowable at least by virtue of their dependence on independent claim 1 or intervening dependent claims. And, the deficiencies of Garthe are not remedied by Alden and Stanton. The rejection of these dependent claims should be withdrawn. Applicants do not concede the correctness of the rejection.

Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitson et al. (US 7,144,404) in view of Alden et al. (US 7,033,371) and Tone (US 4,328,879). Applicants respectfully traverse this rejection.

Claims 5 and 10 are allowable at least by virtue of their dependence on independent claim 1 or intervening dependent claims. And, the deficiencies of Whitson are not remedied by Alden and Tone. The rejection of these dependent claims should be withdrawn. Applicants do not concede the correctness of the rejection.

New Claims

New independent claim 27 is supported by independent claim 1 but differs in that claim 27 is expressed as a means for performing a specific function, in accordance with on 35 USC § 112, sixth paragraph, by using the terminology “movement converting means”. Therefore, new independent claim 27 should be allowable for reasons similar to the reasons claim 25 is considered to be allowable.

New independent claim 28 is supported by FIGs. 6A to 6C and recites a lancing device where a second moving member is latched to the housing at the advanced position while being urged toward the retreated position. In Garthe, the impact mass 60 is never

latched to the housing 11. And, in Whitson, the frame 14 is never latched to the housing. Therefore, the features of claim 28 are novel, nonobvious, and patentable under 35 U.S.C. 102 and 35 U.S.C. 103 over Garthe, Whitson, or any of the other references cited by the Examiner, taken alone or in combination. The allowance of claim 28 is respectfully requested.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.



Dated: February 1, 2010

DPM/llf

Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &
LARSON, P.C.
P.O. Box 2902
Minneapolis, MN 55402-0902
(612) 455-3800

By: 

Douglas P. Mueller
Reg. No. 30,300